

Opening Statement of the
Honorable Frederica Wilson, Ranking Member,
Subcommittee on Workforce Protections
at the April 23, 2015 hearing entitled
“Protecting America’s Workers: An Enforcement Update from the Mine Safety and Health Administration”

Mr. Chairman, I want to thank you for holding this hearing today. This month marks the five-year anniversary of the disaster at the Upper Big Branch Mine, where 29 miners were killed in a preventable coal dust explosion. To the friends and families of these 29 miners, please know that we continue to remember your loss and are committed to taking steps to prevent tragedies like this in the future.

It has been three years since the Committee’s last hearing on mine safety. At that hearing, we heard testimony on 5 investigation reports that showed the mine operator at Upper Big Branch repeatedly violated mandatory safety standards.

They failed to maintain adequate ventilation, which allowed flammable methane to build up.

They failed to adequately rock dust the mine, which allowed explosive coal dust to accumulate.

They also failed to properly maintain water sprays, which would have prevented the ignition.

We also heard how the mine operator concealed its non-compliance. They kept two sets of mine examination books—one for management and a sanitized version for MSHA inspectors. Mine management also routinely warned foremen when mine safety inspectors were on the property, giving foremen the opportunity to conceal unsafe conditions from inspectors.

Although mine operators are ultimately responsible for safety of miners, MSHA plays a vital role in holding mine operators accountable.

We know that in the 18 months prior to the Upper Big Branch explosion, MSHA issued 692 citations and orders to this mine operator. During 2009, MSHA issued 53 “withdrawal orders” for unsafe conditions, more than any other mine in the nation. But even this was not enough.

Since Upper Big Branch, MSHA has enacted many reforms.

MSHA is using “impact inspections” to target high risk mines.

MSHA has issued final regulations for its most powerful administrative enforcement tool—the Pattern of Violations sanction—which is intended to bring serial violators into greater compliance.

MSHA has issued a final rule increasing the required amount of rock dust to be deposited in underground mines, which will decrease the likelihood of coal dust explosions.

MSHA has also issued a rule requiring continuous mining machines have “proximity detection” devices designed to prevent crushing or pinning miners.

The tragedy at Upper Big Branch also brought to light weaknesses in The Mine Act.

That is why yesterday I joined with Ranking Member Bobby Scott to re-introduce the Robert C. Byrd Mine Safety Protection Act. This bill gives MSHA the tools it needs to provide greater protections for mine workers.

An important provision of this bill provides MSHA with greater subpoena authority. This means that MSHA would have the authority to compel the production of documents and witnesses during an inspection and investigation.

Unlike other laws, the 1977 Mine Act gave MSHA limited subpoena authority, forcing MSHA to ask the few states that have subpoena authority for their assistance.

By contrast, Congress provided expansive subpoena authority under the Occupational Safety and Health Act to better protect worker safety. Similarly, Congress provided subpoena authority to the Labor Department under the Fair Labor Standards Act to ensure workers get the wages they are due.

Congress has even provided subpoena authority to the Agriculture Department under crop promotion laws, such as the Watermelon Research and Promotion Act, the Pecan Promotion and Research Act, and the Popcorn Promotion, Research and Consumer Information Act.

I would ask that we join in a bipartisan effort to enact legislation to provide MSHA with expanded subpoena authority. Although it's only a piece of the Byrd bill, I hope we can reach a compromise on this issue.

The Mine Act states that the first priority of the industry “must be the health and safety of its most precious resource—the miner.”

By giving MSHA this investigative tool, we can advance the safety of the miners.

By enacting this provision, we also respect requests from the families of deceased miners who have asked for our help in strengthening the law.

I thank Mr. Main for appearing here today, and look forward to his testimony.

I yield back the balance of my time.

###